

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FREDERICK O. SILVER,

Plaintiff,

v.

STATE OF TEXAS OFFICE OF THE
ATTORNEY GENERAL and W. KENNETH
PAXTON, *his official and individual capacity*,

Defendants.

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1:24-CV-1298-RP

ORDER

Before the Court is *pro se* Plaintiff Frederick O. Silver’s (“Plaintiff”) Motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction. (Mot. TRO, Dkt. 12). Defendants State of Texas Office of the Attorney General and W. Kenneth Paxton, his official and individual capacity, (“Defendants”), have not been served. Having reviewed the motion, the Court finds that Plaintiff’s request for an ex parte TRO should be denied.

A TRO is “a highly accelerated and temporary form of preliminary injunctive relief, which may be granted without notice to the opposing party or parties.” *Cotton v. Texas Express Pipeline, LLC*, 2017 WL 2999430, at *1 (W.D. Tex. Jan. 10, 2017). But under Federal Rule of Civil Procedure 65, a court may issue a TRO without written or oral notice to the adverse party only if both of the following requirements are met:

- (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
- (B) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1). Plaintiff does not certify in writing any efforts made to give notice to Defendants or why notice should not be required. (*See* Mot. TRO, Dkt. 12). Thus, Plaintiff has not

satisfied both requirements for the issuance of an ex parte TRO under Rule 65(b)(1). *See CompuCom Sys., Inc. v. WJ Glob., LLC*, No. 3:14-CV-3625-L, 2014 WL 5032747, at *2 (N.D. Tex. Oct. 8, 2014) (denying Plaintiff's request for ex parte relief on same grounds); *Cotton*, 2017 WL 2999430, at *2 (W.D. Tex. Jan. 10, 2017) (denying Plaintiff's request for ex parte relief for failure to satisfy both requirements of Rule 65(b)).

Accordingly, **IT IS ORDERED** that Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction, (Dkt. 12), is **DENIED IN PART**. Specifically, Plaintiff's motion for a TRO is denied. The Court will address Plaintiff's motion for a preliminary injunction once Defendants have been served and given the opportunity to respond.

SIGNED March 10, 2025.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE